

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament on 8 December 2011 pursuant to section 3(2) of
the Immigration Act 1971*

*Ordered by The House of Commons to be printed
8 December 2011*

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STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by her as to the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom and contained in the statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cm 2663), 26 October 1995 (HC 797), 4 January 1996 (Cm 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cm 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cm 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cm 3953), 8 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 27 August 2001 (Cm 5253), 16 April 2002 (HC 735), 27 August 2002 (Cm 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cm 5829), 24 August 2003 (Cm 5949), 12 November 2003 (HC 1224), 17 December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC523), 3 August 2004 (Cm 6297), 24 September 2004 (Cm 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302), 22 February 2005 (HC 346), 24 March 2005 (HC 486), 15 June 2005 (HC 104), 12 July 2005 (HC 299), 24 October 2005 (HC 582), 9 November 2005 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 23 January 2006 (HC 819), 1 March 2006 (HC 949), 30 March 2006 (HC 1016), 20 April 2006 (HC 1053), 19 July 2006 (HC 1337), 18 September 2006 (Cm 6918), 7 November 2006 (HC 1702), 11 December 2006 (HC 130), 19 March 2007 (HC 398), 3 April 2007 (Cm 7074), 4 April 2007 (Cm 7075), 7 November 2007 (HC 28), 13 November 2007 (HC 40), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607), 10 July 2008 (HC 951), 15 July 2008 (HC 971), 4 November 2008 (HC 1113), 9 February 2009 (HC 227), 9 March 2009 (HC 314), April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 18 March 2010 (HC 439), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382), 19 August 2010 (Cm 7929), 1 October 2010 (Cm 7944), 21 December 2010 (HC 698), 16 March 2011 (HC 863), 31 March 2011 (HC 908), 13 June 2011 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511) and 7 November 2011 (HC 1622).

The changes set out in this Statement shall take effect on 1 January 2012.

Review

Before the end of each review period, the Secretary of State must:

- (a) carry out a review of the changes made by HC 1693,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

The report must in particular:

- (a) set out the objectives intended to be achieved by any regulatory system established by HC 1693,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

“Review period” means:

(a) the period of five years beginning on 1 January 2012, and

(b) subject to the paragraph below, each successive period of five years.

If a report under this provision is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

Changes

1. In paragraph 6, after the definition of a "Tier 5 (Youth Mobility) Temporary Migrant" insert:

“Deemed sponsorship status” means that the country or territory is not required to issue its nationals or passport holders with a Certificate of Sponsorship in order to enable a successful application under the Tier 5 Youth Mobility Scheme and is held by a country or territory listed as such at Appendix G of these Rules.

2. In paragraph “245ZI after “participating countries” insert “ and territories”.

3. In paragraph 245ZJ delete “If they do not” and replace with “If a migrant does not”.

4. In paragraph 245ZK after “if a citizen of a country” insert “or the rightful holder of a passport issued by a territory”.

5. In paragraph 245ZK after “the annual allocation of places under this route,” delete ”for citizens of that country would be exceeded, the application will be refused.” and replace with “ as specified in Appendix G for citizens of that country or rightful holders of passports issued by that territory would be exceeded, the application will be refused.”.

6. In paragraph 245ZK(a) after “refusal” delete “.” and replace with “; and”.

7. In paragraph 245ZK(b)(i) after “citizen of a country” insert “or rightful holder of a passport issued by a territory”.

8. In paragraph 245ZK(b)(ii) after “ has been met” delete “.” and insert “; and”.

9. After paragraph 245ZK(b)(ii) insert:

“(c) The applicant must be sponsored by his country of citizenship or the territory of which he is a rightful passport holder as follows:

(i) If the applicant is a citizen of a country or the rightful holder of a passport issued by a territory that does not have Deemed Sponsorship Status, the applicant must hold a valid Certificate of Sponsorship issued by that country or territory and must use that Certificate of Sponsorship in support of an application lodged in the country or territory of issue; or

(ii) If the applicant is a citizen of a country or the rightful holder of a passport issued by a territory that has Deemed Sponsorship Status, his valid passport issued by the country or territory holding such status will stand as evidence of sponsorship and the application for leave may be made at any post worldwide; and”

10. Renumber existing paragraphs 245ZK(c) to 245ZK(f) as 245ZK(d) to 245ZK(g).

11. In new paragraph 245ZK(d) delete “.” and insert “; and”.

12. In new paragraph 245ZK(e) delete “.” and insert “; and”.

13. In new paragraph 245ZK(f) delete “.” and insert “; and”.

14. In Appendix A, Table 14 after “Citizen of a country” insert “or rightful holder of a passport issued by a territory listed”.

15. Delete Appendix G and insert:

“Appendix G - Countries and Territories participating in the Tier 5 Youth Mobility Scheme and annual allocations of places for 2012.

Countries and Territories with Deemed Sponsorship Status:

- Australia – 32,500 places
- Canada – 5,000 places
- Japan – 1,000 places
- New Zealand – 10,000 places
- Monaco – 1,000 places

Countries and Territories without Deemed Sponsorship Status:

- Taiwan – 1,000 places”



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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 8 DECEMBER 2011 (HC 1693)**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 The purposes of these changes are:

- To extend the Tier 5 Youth Mobility Scheme to qualifying territories as well as countries.
- To define the term “Deemed Sponsorship Status”.
- To allow Taiwan to be added as a participant of the Tier 5 Youth Mobility Scheme from 2012.
- To set out the annual allocation of YMS places available to YMS participating countries and territories in 2012.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Immigration Rules, as laid before Parliament by the Home Secretary, constitute a statement of practice to be followed in the administration of immigration legislation for regulating entry into, and stay of persons in, the United Kingdom.

4.2 This Statement of Changes in Immigration Rules has been incorporated into a consolidated version of the Immigration Rules, which can be found under the ‘Policy and Law’ page at www.ukba.homeoffice.gov.uk, where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

4.3 The changes in this Statement shall take effect on 1 January 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As this Statement of Changes in the Immigration Rules is subject to a negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

What is being done and why

Tier 5 Youth Mobility Scheme

- 7.1 The Tier 5 Youth Mobility Scheme is a cultural exchange scheme which until now has only been open to countries that are prepared to sponsor their young people and which meet the qualifying criteria for the scheme, namely presenting a low immigration risk, operating effective returns arrangements with the UK and offering a suitable reciprocal scheme. The current rules using the terms “nationality” and “country” do not allow for territories which issue their own passports to participate. These changes extend the scheme to provide for the participation of qualifying territories that issue their own passports.
- 7.2 These changes introduce and define “Deemed Sponsorship Status” as a status which is conferred upon a country or territory that participates in the Tier 5 Youth Mobility Scheme provided that it is very low risk and the UK has experience of operating the Tier 5 (Youth Mobility Scheme) or one of the preceding youth mobility type arrangements with them. Countries or territories with Deemed Sponsorship Status do not have to issue Certificates of Sponsorship. Countries and territories that join the Youth Mobility Scheme and with which the UK has no previous experience of operating a youth mobility arrangement do not qualify for Deemed Sponsorship Status and so must issue their nationals or passport-holders with Certificates of Sponsorship. In addition, those Certificates of Sponsorship can only be used in applications made within the national’s or passport-holder’s own country or territory.
- 7.3 The changes include the addition of a new participating territory: Taiwan.
- 7.4 Under the terms of the Youth Mobility Scheme, each participating country or territory accepts that it will receive an annual, minimum of 1,000 places or an allocation equivalent to the last recorded annual number of initial visas granted to UK nationals under their reciprocal scheme/s, rounded up to the nearest 500, if this is larger. These changes set out the country allocations for 2012 in the Rules.

8. Consultation

- 8.1 No formal consultation has taken place on this occasion as the terms of the Youth Mobility Scheme were established in November 2008 when the original rules were laid. These changes simply clarify the arrangements for the operation of the scheme as previously approved by Parliament and add a new qualifying territory.

9. Guidance

- 9.1 Information on these changes will be made available to applicants and UK Border Agency staff, through updates to websites and guidance.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

11. Regulating small business

11.1 The legislation has no impact on small businesses.

12. Monitoring & review

12.1 All the changes introduced by this Statement will be monitored on an on-going basis as part of the review of progress towards meeting Public Service Agreement 3: 'ensure controlled, fair migration that protects the public and contributes to economic growth.'

13. Contact

13.1 Queries specifically regarding this Statement of Changes only should be addressed to Suzanne Barnes at the Home Office on 0207 035 3454 or email to Suzanne.Barnes@homeoffice.gsi.gov.uk .

13.2 Other queries not related to this Statement of Changes, such as queries relating to individual cases should be addressed as per the Contact page on the UK Border Agency website at www.ukba.homeoffice.gov.uk/contact/